REQUEST FOR RECONSIDERATION

Reconsideration of the present application is respectfully requested.

Claims 1-6 and 8-13 are pending in the application, with Claims 1, 4, 6, 8 and 10 being written in independent form.

The Examiner rejected Claim 10 under 35 U.S.C. §101 as being non-statutory. The Examiner rejected Claims 3 and 10 under 35 U.S.C. §112, second paragraph, for indefiniteness. The Examiner rejected Claims 4-5 and 12 under 35 U.S.C. §102(b) as being anticipated by "Reliable Multicast Transport Protocol" to *Paul et al.* (hereinafter *Paul*). The Examiner rejected Claims 8-9 under 35 U.S.C. §102(b) as being anticipated by EPA 01303442.6 to *Sato et al.* (hereinafter *Sato*). The Examiner rejected Claim 10 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,065,066 to *Mizutani et al.* (hereinafter *Mizutani*). Under 35 U.S.C. §103(a), the Examiner rejected Claims 1-2 and 11 as being unpatentable over *Paul* in view of U.S. Publication No. 2002/0021684 to *Toshimitsu et al.* (hereinafter *Toshimitsu*), Claim 3 as being unpatentable over *Paul* in view of *Toshimitsu* and further in view of U.S. Patent No. 7,065,066 to *Mizutani et al.* (hereinafter *Mizutani*), and Claims 6 and 13 as being unpatentable over *Sato* in view of *Paul*.

Please amend Claim 10 as set forth herein. No new matter is added.

Regarding the §101 rejection of Claim 10, the Examiner alleged that the claim lacks proper preamble language for a statutory computer program product. Applicants gratefully acknowledge the Examiner's grant of a telephonic interview with Applicants' counsel, Ryan C. Carter, Esq., which took place on January 8, 2008 and in which was discussed the §101 rejection. Said counsel respectfully asserted that the claim as previously amended conformed to the statutory §101 requirements for computer-related subject matter. However, after consulting with a supervisor the Examiner called said counsel back, and stated that the preamble should be amended to include "executable" language.

Accordingly, Claim 10 has been amended as shown herein, to recite *inter alia* that the computer-readable medium is encoded with a multicast packet train header <u>for executing a</u> multicast data transmission. It is respectfully submitted, therefore, that the §101 rejection has been overcome, and withdrawal of the rejection is respectfully requested.

Regarding the rejection of Claims 3 and 10 under 35 U.S.C. §112, second paragraph, Applicants respectfully traverse as to Claim 3, and generally provide the following explanation. "The number of groups of wireless terminals" in Claim 3 relates back to the "grouping wireless terminals" step that is performed in part A of Claim 1. Therefore, it is respectfully asserted that Claim 3 is definite. In addition, Claim 10 has been amended in lines 7-8 of the claim, to overcome this rejection. Specifically, Claim 10 now recites *inter alia*, the number of multicast packet<u>s</u> in each group, the multicast packet<u>s</u> being transmitted after the multicast packet train header is multicasted. It is respectfully submitted, therefore, that the §112, second paragraph rejection has been overcome, and withdrawal of the rejection is respectfully requested.

Regarding the rejection of Claims 4-5 and 12 under 35 U.S.C. §102(b), Applicants respectfully traverse. It is respectfully asserted that *Paul* fails to disclose the recitation, "receiving a retransmission command from the access point and retransmitting the multicast packets to other wireless terminals, irrespective of whether the wireless terminals receive the multicast packets." The Examiner cited page 409, paragraph 2, where it is taught that packets are multicast globally, but nowhere in this paragraph is there discussed receiving a retransmission command, let alone from an access point, in these cited passages of *Paul*, contrary to the rejection and to the Examiner's Response to Arguments.

Applicants respectfully assert to the Examiner that "global multicast tree" in *Paul* is simply a distinction, as "from the local multicast tree which is a part of the global multicast tree," as explained in said paragraph 2. That's the extent of the meaning of "global" in *Paul*. This teaching neither explicitly nor impliedly reads on the recitation at issue in Claim 4, and causes *Paul* to fail at teaching each and every element recited in the rejected claims, rendering the rejection clearly insufficient in terms of §102(b) scrutiny.

To further elucidate the distinctions between *Paul* and the rejected claims, Applicants respectfully set forth that Claims 4, 5 and 12 recite the selected wireless terminal (repeater) retransmits the multicast packets to other terminals irrespective of whether the wireless terminals receive the multicast packets. That is, wireless terminals do not send their own status to the repeater. Thus, the retransmission method of the rejected claims enhances efficiency because the repeater does not need to wait to receive the status from the other wireless terminals. In contrast, *Paul* discloses that receivers send their own status to a corresponding DR (Designated Receiver) and the DR retransmits the lost packets after receiving the status.

For at least the foregoing reasons, it is respectfully submitted that this rejection of Claims 4-5 and 12 should be withdrawn, and withdrawal of the same is respectfully requested.

Regarding the §102(b) rejection of Claims 8-9, the Examiner alleged that *Sato* discloses each and every element of the rejected claims. Applicants respectfully traverse.

It is respectfully asserted that in *Sato*, there is no retransmission order-arranging unit that arranges the order in which repeaters retransmit the multicast packets, as recited *inter alia* in Claim 8. *Sato* teaches, "determines mobile terminals to which multicast information can be retransmitted in accordance with a given standard," which is different from the claim recitation at issue. See *Sato*, paragraph [0035], lines 3-5. In addition, the Examiner alleged that element 24 in FIG. 5, and paragraph [0038] read on the recitation at issue. However, *Sato* merely teaches here a retransmission control unit (24), and that the BS retransmits a packet of information "under the control of the information delivery control unit (24)." Accordingly, it is respectfully submitted that *Sato* fails at teaching each and every element recited in the rejected claims.

In addition, Applicants respectfully reiterate that in a subsequent rejection herein, i.e., the §103(a) rejection of Claims 6 and 13, the Examiner actually conceded that, "*Sato* fails to specifically disclose determining the order and repeating in the order." In other words, the Examiner expressly contradicted the §102(b) rejection of Claims 8-9, which alleged *inter alia* that *Sato* discloses, "arranges the order in which repeaters retransmit the multicast packets." The

Examiner alleged in the Response to Arguments that the limitations in Claims 6 and 13 are different from those in Claims 8-9, but Applicants respectfully disagree as to at least the recitation at issue, for the foregoing reasons. Basically, Claim 6 presents in method form the recitation at issue in Claim 8. The Examiner cannot without contradiction, allege that *Sato* teaches "a retransmission order arranging unit that arranges the order to which repeaters retransmit the multicast packets" as set forth in Claim 8, yet concede that "*Sato* fails to specifically disclose determining the order and repeating the order," especially considering that this rejection is of the anticipation variety under §102(b).

Moreover, it is respectfully asserted that *Sato* discloses a mobile station sending a retransmission request to a base station, but contrary to rejected Claims 8-9, the mobile station does not retransmit the received packet. That is, *Sato* does not teach selecting the repeater <u>to retransmit received multicast packets from each group</u> of wireless terminals, as recited *inter alia* in Claim 8. For at least the foregoing reasons, it is respectfully submitted that the rejection of Claims 8-9 is incorrect and should be withdrawn. Withdrawal of the same is respectfully requested.

Regarding the §102(e) rejection of Claim 10, the Examiner alleged that *Mizutani* discloses each and every element of the rejected claim. Respectfully, Applicants adamantly disagree.

The Examiner maintained the allegation that "information about the number of multicast packet in each group which indicates the number of multicast packet in each group" as recited *inter alia* in Claim 10, is taught in FIG. 4 of *Mizutani*. In the previous Office Action, the Examiner made a curious assertion in an attempt to validate this rejection, which Applicants strongly traversed in the Response. Currently, the Examiner put forth in the Response to Arguments that "information" about the number of multicast packets is read on by terminal ID 1-A, 1-B, 4-C in FIG. 4. However, it is respectfully asserted that this allegation is totally unsupported by *Mizutani*.

To wit, there is absolutely no teaching of the terminal ID, 1-A, 1-B, 4-C in FIG. 4 anywhere in *Mizutani*, as reading on the recitation at issue, neither express nor implied. For at

least these reasons, it is respectfully submitted that he §102(e) rejection of Claim 10 should be therefore withdrawn. Withdrawal of the same is respectfully requested.

Regarding the rejection of Claims 1-2 and 11 under 35 U.S.C. §103(a), it is respectfully asserted that *Paul* fails to disclose that the selected wireless terminal (repeater) retransmits the multicast packets to other terminals irrespective of whether the wireless terminals receive the multicast packets, as previously argued with regard to the rejection of Claims 4-5 and 12. Since *Toshimitsu* fails to cure these deficiencies in *Paul*, it is respectfully asserted that the §103(a) if Claims 1-2 and 11 is incorrect, and therefore, it is respectfully requested that this rejection of Claims 1-2 and 11 be withdrawn.

Regarding the rejection of Claim 3 under 35 U.S.C. §103(a), it is respectfully asserted that this rejection should be withdrawn at least in view of the foregoing arguments regarding the rejection of Claims 1-2 and 11, and further, since *Toshimitsu* and *Mizutani* fail to cure the stated deficiencies in *Paul*. Accordingly, withdrawal of the rejection is respectfully requested.
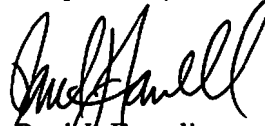
Regarding the §103(a) rejection of Claims 6 and 13, Applicants respectfully reiterate the Examiner's concession that, "*Sato* fails to specifically disclose determining the order and repeating in the order," which runs counter to the allegation in the rejection of Claims 8-9, as previously discussed. In other words, the Examiner expressly contradicted the §102(e) rejection of Claims 8-9, which alleged *inter alia* that *Sato* discloses arranging the order in which repeaters retransmit the multicast packets. This contradiction renders vague the §103(a) rejection of Claims 6 and 13, and it is respectfully asserted that the contradictory rejections cannot stand.

For at least the foregoing reasons, it is respectfully submitted that the rejection of Claims 6 and 13 is incorrect and should be withdrawn. Withdrawal of the same is respectfully requested.

Independent Claims 1, 4, 6, 8 and 10 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3, 5, 9 and 11-13, these are likewise believed to be allowable by virtue of their dependence on their respective independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3, 5, 9 and 11-13 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-6 and 8-13, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

Paul J. Farrell
Reg. No. 33,494
Attorney for Applicants

THE FARRELL LAW FIRM
333 Earle Ovington Blvd. Suite 701
Uniondale, New York 11553
Tel: (516) 228-3565
Fax: (516) 228-8475

PJF/RCC/dr